

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

WP(C).No. 1115 of 2007(G)

PETITIONER:

AMEER KHAN @ AMEER HAMSA
S/O. LATE LABBA KUNHU AMEER HAMSA
RESIDING AT KINGS VILLA,
MEENATHCHERI, KAVANADU P.O. KOLLAM DISTRICT
(PROPRIETOR, " HOTEL KINGS", NEAR RAILWAY STATION,KOLLOM)

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN
SRI.R.SURAJ KUMAR
SMT.GEETHA P.MENON

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT OF KERALA, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.
2. THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF LOCAL SELF GOVERNMENT,
GOVT.SECRETARIAT, THIRUVANANTHAPURAM.
3. THE HON'BLE OMBUDSMAN FOR LOCAL SELF GOVERNMENT
INSTITUTIONS, THIRUVANANTHAPURAM.
4. THE KOLLAM CORPORATION,
REPRESENTED BY ITS SECRETARY, CORPORATION OFFICE,KOLLAM.
5. SUMANGALA,
LAKSHMI VILASAM, MADANNADA, VADAKKEVILA,
KOLLAM DISTRICT.

BY G.P. SRI.MATHEW G.VADAKKAL
BY SRI.M.K.CHANDRAMOHAN DAS (SC)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

PIUS C. KURIAKOSE, J.

W.P.(C) No. 1115 OF 2007

Dated this the 10th day of January, 2007

JUDGMENT

Sri.M.K. Chandramohan Das, Standing Counsel takes notice on behalf of 4th respondent, Kollam Corporation. In the nature of the order of which is being passed, I am of the view that it is not necessary to issue notice to the 5th respondent. The 5th respondent filed a compliant before the 3rd respondent-Ombudsman alleging that the petitioner has made illegal constructions. Before the Ombudsman, the 4th respondent-Corporation submitted a statement to the effect that noticing the illegal constructions the Corporation has already initiated proceedings under Section 406 (1) and (2) of the Kerala Municipality Act. On the basis of that statement, the Ombudsman passed Ext.P6 order clarifying that the proceedings will not stand in the way of Corporation's proceedings under Section 406(1) and (2). Thereafter Ext.P7 vacation notice was issued by the Corporation to the petitioner. The petitioner's case is that though an order dt.17.9.04 is referred to in Ext.P7, the same has not so far been communicated to the petitioner. According to the petitioner, he came to have any information regarding the order referred to in Exts.P6 and P7 only after he noticed the statement filed by the Corporation in Ext.P6 complaint and after he received Ext.P7 notice. The order of

demolition passed by the Corporation in respect of the constructions put up by the petitioner is appealable to the Tribunal for Local Self Government Institutions and I do not find any reason in this case as to why the petitioner is denied that right of appeal. Therefore without going into the merits of the various grounds raised, the Writ Petition will stand disposed of with the following directions:

If the petitioner makes an application before the 4th respondent for a copy of the order dt.17.9.04 which is referred as No.1 in Ext.P7 within one week of his receiving copy of this judgment, the Corporation will serve a copy of that order to the petitioner within another week thereafter. The petitioner is directed to approach the Tribunal for Local Self Government Institutions by filing an appeal against the said order. The Tribunal will entertain that appeal and dispose of the same in accordance with law, if the petitioner prefers the appeal within two weeks of his receiving copy of the order dt.17.9.04, as one filed on time. In view of the above directions, Ext.P7 will be kept in abeyance by the 4th respondent Corporation for a period of one month from today.

PIUS C. KURIAKOSE, JUDGE

btt

